

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Revision of Procedures Governing Amendments)	MB Docket No. 05-210
To FM Table of Allotments and Changes Of)	RM-10960
Community of License in the Radio Broadcast)	
Services)	

COMMENTS OF CLEAR CHANNEL COMMUNICATIONS, INC.

Clear Channel Communications, Inc. (“Clear Channel”) hereby submits its comments on the *Notice of Proposed Rule Making* in this proceeding.¹ Clear Channel commends the Commission for initiating this reexamination of the procedures for amending the FM Table of Allotments. As the nation’s largest radio station owner and operator, owning or programming more than 1,100 radio stations in local markets throughout the United States, Clear Channel has occasion to utilize the Commission’s FM allotment process to pursue community of license changes and other modifications that both enhance its stations’ technical service and improve overall spectrum efficiency. Clear Channel shares the interest of the Commission and other radio broadcasters in modernizing the FM allotment process and reducing the inefficiencies and delays which all too often plague that process.

Clear Channel supports most of the *Notice*’s proposals. In particular, Clear Channel wholeheartedly supports the Commission’s proposal to require proponents and counterproponents seeking a new allotment to simultaneously file an FCC Form 301 application

¹ *Notice of Proposed Rule Making* in MB Docket No. 05-210, FCC 05-120 (Jun. 14, 2005) (“*Notice*”).

and pay the associated filing fee.² Earlier in this proceeding, Clear Channel proposed that the Commission adopt an “upfront” fee in order to deter speculative rulemaking proposals, which not only divert staff resources but have a preclusive effect on meritorious proposals that enhance station service and the allotment scheme.³ Clear Channel is pleased that the Commission agrees.

Additionally, Clear Channel supports the Commission’s proposal to limit to five the number of allotment changes proposed in a petition.⁴ Proposals for more than five changes to the Table normally prove overly complex and time-consuming for the Commission to consider, and therefore a limit to five changes is consistent with the overall objective of streamlining the allotment process. Clear Channel also supports the *Notice*’s proposed elimination of the current prohibition on electronic filing of rulemaking petitions,⁵ a change that once again would streamline and speed the Commission’s consideration of allotment proposals. Moreover, Clear Channel supports the Commission’s decision to invite comment on the circumstances under which the reallocation of a community’s sole local transmission service may be in the public interest. As Clear Channel noted in its earlier comments, a flat prohibition on relocation of a community’s only local service may needlessly preclude service improvements that serve the overall public interest.⁶

² *Notice*, ¶ 34.

³ *Id.*, ¶ 33 (citing Comments of Clear Channel Communications, Inc. on RM-10960 (May 24, 2004) (“Clear Channel May 2004 Comments”), at 2-4).

⁴ *Id.*, ¶ 37.

⁵ *Id.*, ¶ 39.

⁶ *See* Clear Channel May 2004 Comments at 4.

Clear Channel has previously expressed its concern about the Commission's proposal to permit community of license changes by minor modification application.⁷ It continues to believe that this proposal threatens to degrade the integrity of Section 307(b) by cutting off the rights of competing proponents who may propose superior arrangements of allotments. Inasmuch as the Commission has tentatively concluded that allowing community of license changes by minor change application is in the public interest,⁸ however, Clear Channel urges the Commission to administer this system with a view toward preserving the integrity of Section 307(b) and preventing "gaming." For instance, the *Notice* tentatively concludes that AM and FM minor change applications for changes in community of license must include "a detailed exhibit demonstrating that the proposed change constitutes a preferential arrangement of allotments under Section 307(b) of the Act as compared to the existing allotment."⁹ This requirement should be adopted, and exhibits submitted pursuant to that requirement should be scrutinized carefully. Moreover, the so-called "Tuck" factors, which are designed to prevent the migration of stations from rural locales to urban areas, should continue to be applied carefully to applications proposing changes to communities in Urbanized Areas.

Clear Channel also is concerned that proper notice procedures be preserved with respect to allotment proposals that contemplate involuntary channel changes by existing stations. Under current rules, an allotment petition or counterproposal that proposes an involuntary channel change by an existing station is served on the affected station, and customarily results in the issuance of a "show cause" order to that station during the course of the rulemaking proceeding.

⁷ See *id.* at 5-7.

⁸ *Notice*, ¶ 27.

⁹ *Id.*

In that manner, the affected station has adequate notice of the proposed involuntary channel change and a full opportunity to respond. It is unclear from the *Notice* how the “show cause” mechanism would work under a regime of community of license changes by minor modification application. The *Notice* appears to contemplate that related technical changes necessary to facilitate a minor change community reallocation would be presented by way of mutually contingent modification applications.¹⁰ Presumably, this means that “show cause” channel changes in the application context could be implemented only through a mutually contingent application for the change by the affected licensee (who, by definition, will have had an opportunity to consider and consent to the change). The Commission should clarify this point.

Also, and relatedly, Clear Channel opposes allowing any allotment proposal that contemplates a “show cause” channel change to be presented by way of a minor change application. Such a scheme would force existing licensees continuously to monitor the Commission’s database for applications that might propose involuntary changes to their stations, resulting in inefficiency and uncertainty. At a minimum, if the Commission permits “show cause” changes to be proposed in an application, it must require that such applications be served on the affected licensee, similar to the requirement for Class C0 “triggering” applications. Clear Channel’s basic concern is that, in a rule regime allowing community of license change proposals by application, adequate notice and response procedures be preserved for existing licensees whose channels are proposed to be changed involuntarily.


¹⁰ *Id.*

Conclusion

With the reservations noted above concerning community of license changes by application, Clear Channel supports the *Notice* in all other respects. Clear Channel commends the Commission for undertaking this rulemaking, and it looks forward to rule changes that simplify and modernize the broadcast allotment process.

Respectfully submitted,

CLEAR CHANNEL COMMUNICATIONS, INC.

By: 

Stephen G. Davis
Senior Vice President of Engineering
and Capital Management

2625 S. Memorial Drive
Tulsa, OK 74129
(918) 664-4581

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